



0000103140

RON KENT HOOPER, Counsel For Respondents.
3420 East Shea, Suite 365, Phoenix AZ 85254
Phone (602 953-5267; Fax 953-5269; AZ Bar #1961

RECEIVED
AZ CORP COMMISSION

DEC 5 3 53 PM '96

BEFORE THE ARIZONA CORPORATION COMMISSION

RENZ D. JENNINGS
Chairman
MARCIA WEEKS
Commissioner
CARL J. KUNASEK
Commissioner

DOCKETED

DEC 05 1996

DOCUMENT CONTROL

DOCKETED BY

SA

In the matter of the offer and sale of securities by

INTERACTIVE TECHNOLOGIES WEST, INC.

LOUIS F. CONANT
6218 East Pinchoff Avenue

KYLE E. GILLMAN
9624 Bain Bridge Court
Manassas, Virginia 22110

DOCKET NO 8-3057-1

**REQUEST FOR SCHEDULING
CONFERENCE;
RESPONSE TO NOTICE OF
OPPORTUNITY FOR HEARING
REGARDING PROPOSED ORDER
TO CEASE AND DESIST, FOR
RESTITUTION AND
ADMINISTRATIVE PENALTIES;
BASIS FOR LACK OF
JURISDICTION**

LOUIS F. CONANT and INTERACTIVE TECHNOLOGIES WEST, INC. request a hearing and respond to the NOTICE OF OPPORTUNITY FOR HEARING REGARDING PROPOSED ORDER TO CEASE AND DESIST, FOR RESTITUTION AND ADMINISTRATIVE PENALTIES of the SECURITIES DIVISION, as follows:

HEARING REQUESTED

RESPONDENTS request a hearing and demand strict proof, beyond a reasonable doubt, of each and every allegation made against them and of each and every claim and request for relief asserted by the Securities Division in accordance with the Procedural Rules guaranteed by the provisions of the United States Constitution and Arizona Constitution cited herein.

**AGREEMENT TO STIPULATE NOT TO SELL
OR OFFER SECURITIES**

Respondents agree to enter into a stipulation for an appropriate order to entered prohibiting Respondents from offering or selling securities.

**VIOLATION OF RESPONDENTS' CONSTITUTIONAL RIGHTS
AND PROSECUTORIAL MISCONDUCT**

Respondents were served with said NOTICE OF OPPORTUNITY FOR HEARING REGARDING PROPOSED ORDER TO CEASE AND DESIST, FOR RESTITUTION AND ADMINISTRATIVE PENALTIES by agents of the Federal Government, contemporaneous with a criminal search warrant issued by Federal Magistrate BARRY SILVERMAN and a subpoena requiring RESPONDENTS to appear before Grand Jury Proceedings on December 10, 1996. The U.S. Attorney in Phoenix has targeted Respondents for indictment, using evidence, analysis, opinions and conclusions obtained during an aggressive, threatening and intimidating investigation of RESPONDENTS by the SECURITIES DIVISION.

BRIAN J. SCHULMAN and agents of the SECURITIES DIVISION attempted unconstitutional searches, issued subpoenas and required Respondent LOUIS F. CONANT, individually and as president of INTERACTIVE TECHNOLOGIES WEST, INC. to appear, produce documents and be subjected to threatening, aggressive and intimidating depositions, on or about June 4, 1995, and June 26, 1996. BRIAN J. SCHULMAN and the SECURITIES DIVISION belligerently made repeated efforts to intimidate RESPONDENTS and their Counsel and to prevent RESPONDENTS from asserting their constitutional rights and from having the opportunity to get their objections and challenges heard by any judge or judicial officer. BRIAN J. SCHULMAN, assumed the roles of a law enforcement officer, prosecutor and judicial officer and threatened RESPONDENTS with being forced to appear and to be interrogated countless times until the Division got what it wanted.

Retaliating against RESPONDENTS, after Respondents insisted on exercising their Constitutional Rights, BRIAN J. SCHULMAN and the SECURITIES DIVISION delayed the start of this proceeding, assisted FEDERAL AGENTS and coordinated the search and seizure of RESPONDENTS records and office equipment and RESPONDENTS appearance before said grand jury. The SECURITIES DIVISION thereby deprived RESPONDENTS of the records and office equipment essential for RESPONDENT to fully respond to said notice and prepare for the hearing requested by RESPONDENTS.

The SECURITIES DIVISION deprived RESPONDENTS of Due Process of Law, the Right To Be Free From Unreasonable Searches And Seizures, and Procedural Rights Guaranteed For The Investigation Of Crimes, The Procedural Rights Guaranteed in Criminal and Civil Cases, and Freedom From Self Incrimination guaranteed by the 4th, 5th, 6th, 7th, and 14th Amendments to the Constitution of the United States and the Declaration of Rights, Article 2, Sections 1, 2, 8, 9, 10, 13, 23, 24, and 30 of the Constitution of the State of Arizona.

This proceeding is so punitive and criminal in nature that it deprives RESPONDENTS of Due Process of Law, their Right To A Jury Trial and the Procedural Rights Established For Crimes guaranteed by the 4th, 5th, 6th, 7th, and 14th Amendments to the Constitution of the United States and The Declaration of Rights, Article 2, Sections 1, 2, 8, 9, 10, 13, 23, 24, and 30 of the Constitution of the State of Arizona. This proceeding also violates the doctrine of Separation of Powers guaranteed by the Constitution of the State Of Arizona.

The Securities Division is seeking Cruel and Excessive Fines, Punishments and Penalties, Unconstitutional Forfeiture Of Estate, and is subjecting RESPONDENTS to Double Jeopardy in violation of the 5th, 8th and 15th Amendments to The Constitution Of The United States and the Declaration of Rights, Article 2, Sections 10, 13, 14, 16 and 30 of The Constitution of the State of Arizona.

**REQUEST FOR SCHEDULING CONFERENCE TO SET DATE OF HEARING
AFTER RESPONDENTS HAVE OBTAINED PRODUCTION OF DOCUMENTS
AND COMPLETED DISCOVERY AND FOR LEAVE TO FURTHER RESPOND**

THE SECURITIES DIVISION delayed and timed this proceeding and facilitated the seizure of RESPONDENTS records and equipment, depriving RESPONDENTS of the records necessary to prepare for a hearing. RESPONDENTS' counsel are preparing requests for production and interrogatories essential to prepare for the hearing. THE SECURITIES DIVISION forced RESPONDENTS to use their limited resources to first retain counsel, prepare and respond to grand jury proceeding set for December 10, 1996.

RESPONDENT KYLE E. GILLMAN is also a target of the Federal Grand Jury Proceeding lives in Virginia.

RESPONDENTS' undersigned counsel has trials set in February, 1996, which have preference. It is anticipated that RESPONDENTS will be indicted and for Federal trial will be set in February or March 1997. Four months is required to prepare for the hearing. It should not set before April 1997.

LACK OF JURISDICTION

RESPONDENTS incorporate the prior matters set forth herein. Respondents deny that the partnerships or other investments at issue are securities.

Subject to Respondents' willingness to enter into an agreed order to cease and desist the offering and sale of investors partnership interests or securities, the Arizona Corporation Commission has no jurisdiction to adjudicate the facts and claims raised by the SECURITIES DIVISION or to order the relief requested by the SECURITIES DIVISION.

The relief sought by THE SECURITIES DIVISION is essentially penal. The prosecutorial misconduct, threatening and intimidating conduct of BRIAN J. SCHULMAN and the SECURITIES DIVISION, the assisted contemporaneous search and seizure of Respondents' records and equipment, pursuant to said Federal Search Warrant, the involvement of the Securities Division in the Federal investigation and the subpoenaing and targeting of Respondents to be indicted in Grand Jury Proceeding on December 10, 1996, is so great and this action is so intertwined with said Federal Criminal Proceeding, that the Conduct of the Securities Division and this proceeding have assumed the characteristics of a criminal proceeding. Therefore, The Corporation Commission has no jurisdiction.

LATCHES, ESTOPPEL AND UNCLEAN HANDS

The SECURITIES DIVISION is estopped and barred by latches from any recovery by its unclean hands and because of its prosecutorial misconduct.

WHEREFORE, RESPONDENTS demand a jury trial and request and pray that: (1) RESPONDENTS be afforded a full hearing; (2) The hearing be held in accordance with the Rules of Criminal Procedure; (3) The hearing be conducted before a Superior or Federal Court Judge; (4) The SECURITIES DIVISION be required to prove each and every allegation, claim and right to relief; (5) For proof be required beyond a reasonable doubt; (6) For This proceeding and all claims made by the SECURITIES DIVISION be dismissed for lack of jurisdiction; (6) For this proceeding and all claims made by the SECURITIES DIVISION be dismissed because of their violation of RESPONDENTS constitutional rights and prosecutorial misconduct; (7) For RESPONDENTS to be awarded their attorney fees and costs; and (8) For judgment to be entered in favor of RESPONDENTS.

Filed this 5th day of December, 1996



RON KENT HOOPER, Counsel For RESPONDENTS
3420 East Shea, Suite 265, Phoenix, AZ 85254
(602 953-5267; Fax 953-5269 AZ Bar #1961

Certificate Of Service: On December 5th, 1996,
a copy of the foregoing DELIVERED to:

VICTOR RODARTE, Esquire
BRIAN J. SCHULMAN, Esquire
SECURITIES DIVISION
ARIZONA CORPORATION COMMISSION
1300 West Washington
Phoenix, Arizona 85007

By 